

Instructions regarding compliance of the judicial/quasi-judicial orders and the caution to be taken in filing of affidavits.

**Government of Maharashtra
Law and Judiciary Department
Government Circular No.: 628-2016/Misc/E
Madam Cama Road, Hutatma Rajguru Chowk,
Mantralaya, Mumbai-400 032
Date: 02 December, 2016**

Read: 1) Circular dated: 30-03-2010.
2) Circular dated: 02-04-2014.
3) Circular dated: 10-11-2016.

CIRCULAR

Hon'ble Bombay High Court, Bench at Nagpur, while disposing of the Contempt Petitions bearing Nos. C.P.No. 20 of 2016 in C.P.No. 243 of 2015 in Writ Petition No. 194 of 2014 (D) & C.P.No. 19 of 2016 in C.P.No. 258 of 2015 in Writ Petition No. 6116 of 2014 (D), vide order dated 06-10-2016, has expressed strong displeasure over the disregard to the orders passed by the Hon'ble Court. Hon'ble Court has warned that, hereinafter, willful disobedience of the orders of the Hon'ble Court shall not be taken lightly.

In order to ensure that there is proper co-ordination between all the Departments of the State Government and the matters are looked into from wholistic point of view rather than political point of view, the Hon'ble Court has been pleased to further direct the Chief Secretary, as under:

- 1) to ensure that he shall inform all the subordinates in the State Government to see to it that the orders passed by this Court are complied with within the periods specified therein or within the period undertaken by the Authorities.***
- 2) to take immediate steps to challenge the Judgment and Order passed by this Court before Hon'ble Apex Court within a reasonable period if the State finds that the said Judgment or Order passed by this Court is not in accordance with law and therefore not acceptable to the State.***
- 3) to ensure that there is a proper inter departmental cooperation amongst all the Departments of the State Government and to further ensure that whenever the issue pertaining to more than one Department of the State Government is involved in a particular lis, then to ensure that the defence taken by the State Government is by consulting all the departments concerned. In such a situation, it should be ensured that rather than filing separate affidavits of different Departments, unified affidavits taking unified stand is filed, so as to avoid the situation as has arisen in the present matter.***

In view of the aforesaid directions of the Hon'ble High Court, all the Additional Chief Secretaries / Principal Secretaries / Secretaries and the Heads of the departments / Organizations are hereby instructed to download a copy of the aforesaid directions of the Hon'ble High Court from the website **www.bombayhighcourt.nic.in** and carefully note the observations of, and appreciate the concerns expressed by, the Hon'ble High Court and ensure scrupulous compliance thereof.

All the officers are hereby again directed that the orders passed by the Hon'ble High Court and other Judicial / Quasi Judicial Forums shall be duly complied within the period specified therein or within the period undertaken by the authorities, unless the orders are stayed, varied, reversed or set aside by the Superior Court or Forum.

If at all the department is of the view that the orders are not acceptable to the State then immediate steps shall be taken to challenge the same before the Higher Forum at the earliest and efforts be made to obtain stay to the effect, operation and implementation of the order appealed against, to avoid contempt proceedings.

It is further directed that in cases wherein more than one department is involved, it would be incumbent upon the officer in-charge of the department i.e. the original respondent to ensure that there is inter-departmental co-operation and that the reply is filed / submissions are made, before the judicial forum, in co-ordination with all the concerned departments and that a unified affidavit taking a unified stand is filed before the Court to rule out the possibility of contradictory submissions being made by the different departments of the State.

The instructions contained hereinabove shall be followed scrupulously. Any failure or deviation therefrom would be viewed seriously and the concerned officers shall be liable for appropriate action.

This Government Circular of Maharashtra Government is available at the website **www.maharashtra.gov.in**. Reference No. for this is 201612021704295712. This order has been signed digitally.

By order and in the name of the Governor of Maharashtra.

(S. S. Kshatriya)

Chief Secretary

Government of Maharashtra

Copy to:

- 1) The All Additional Chief Secretaries, Maharashtra State, Mantralaya, Mumbai.
- 2) The All Principal Secretaries/Secretaries, Mantralaya, Mumbai.

- 3) The Deputy Secretary to the Hon'ble Chief Secretary, Mantralaya, Mumbai.
- 4) The Joint Secretary, Law and Judiciary Department, Nagpur.
- 5) The Joint Secretary, Law and Judiciary Department, Aurangabad.
- 6) The Government Pleader, High Court (A.S), Writ Cell, Mumbai.
- 7) The Government Pleader, High Court (O.S), Writ Cell, Mumbai.
- 8) The Government Pleader, High Court, Nagpur.
- 9) The Government Pleader, High Court, Aurangabad.